

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 06-840V
Filed: June 8, 2009**

LYNNA TELLER, Parent and Next Friend of	*	
NAIYA N. NAMOKI, a minor	*	
	*	
Petitioner,	*	Interim Fees and Costs
	*	Stipulation
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

DECISION ON INTERIM ATTORNEY FEES AND COSTS¹

VOWELL, Special Master:

On December 11, 2006, Lynna Teller ["petitioner"] timely filed a petition for compensation, pursuant to the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-1 et seq. (2006), on behalf of her minor son, Naiya N. Namoki ["Naiya"], alleging that he suffered neurological effects as the result of vaccinations he received on February 3, 2004. Petition at ¶¶ 2-4.

On October 2, 2008, respondent filed a motion for Ruling on the Record. On January 13, 2009, the court issued a [51] Ruling on Entitlement, finding petitioner was entitled to compensation.

Petitioner filed a [58] motion for an award of interim attorney fees and costs on May 19, 2009. See *Avera v. Sec'y, HHS*, 515 F.3d 1343, 1352 (Fed. Cir. 2008). On June 5, 2009, the parties filed a [59] joint stipulation for interim attorney fees and costs.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

The stipulation represents an amended request by petitioner with regard to costs incurred and the hours expended by her counsel, Mr. Richard Gage. The amended request is for a total of **\$55,921.37**, representing: no costs to petitioner, Lynna Teller;² **\$810.00** in costs incurred by the law firm, Gage & Moxley, which previously represented petitioner; **\$20,000.00** in fees for petitioner's current counsel, Richard Gage; and **\$35,111.37** in costs expended by petitioner's current counsel. Respondent did not object to the amended fees and costs request.

I find that petitioner is entitled to an award of interim attorney fees and costs, under the facts and circumstances of this case. A review of the materials offered in support of the application for interim attorney fees and costs indicates that the stipulated amounts are reasonable. The court notes that, in accordance with the terms of the stipulation, this award does not preclude later adjudication of petitioner's counsel's compensable hourly rate for the 100 hours of attorney time now requested. Accordingly, I hereby award the total of **\$55,921.37** issued as:

1. a sum of **\$810.00**, in the form of a check payable jointly to petitioner, Lynna Teller, and petitioner's counsel's former firm, Gage & Moxley, for attorney fees and costs.
2. a sum of **\$55,111.37**, in the form of a check payable jointly to petitioner and petitioner's counsel, Richard Gage, for attorney fees and costs.

In the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in petitioner's favor for \$55,921.37 in interim attorney fees and costs. Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review.

IT IS SO ORDERED.

s/ Denise K. Vowell
DENISE K. VOWELL
Special Master

² Petitioner did not file a statement comporting with General Order 9. However, because any costs personally incurred by petitioner can be addressed in a subsequent award of fees and cost, I have elected to act on this interim application without that statement.